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**In the
Supreme Court of the United States**

OCTOBER TERM, 1982

JOYCELYN M. JONES AND HURIE JONES,

APPELLANTS

VS.

JEFFERSON PARISH SCHOOL BOARD,

APPELLEE

**ON APPEAL FROM THE UNITED STATES
COURT OF APPEALS, FIFTH CIRCUIT**

BRIEF IN OPPOSITION

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TABLE OF CONTENTS

	PAGES
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	ii
JURISDICTION OF THE COURT.....	1
STATEMENT OF CASE.....	2
SUMMARY OF ARGUMENTS.....	2
ARGUMENT 1.....	3
ARGUMENT 2.....	4
ARGUMENT 3.....	5
CONCLUSION.....	6
CERTIFICATE OF SERVICE.....	7

TABLE OF AUTHORITIES

CASES	PAGES
<i>Perry v. Sindermann</i> , 408 U.S. 593, 92 S.Ct. 2694, 33 L.Ed.2d 570 (1972).....	4
<i>Board of Regents v. Roth</i> , 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).....	4
<i>Harrah Independent School District v. Martin</i> , 440 U.S. 194, 99 S.Ct. 1062, 59 L.Ed.2d 248 (1979).....	4
<i>Kelley v. Johnson</i> , 425 U.S. 238, 96 S.Ct. 1440, 47 L.Ed.2d 708 (1976).....	5
<i>Goss v. Lopez</i> , 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975).....	5
<i>Epperson v. Arkansas</i> , 393 U.S. 97, 89 S.Ct. 226, 21 L.Ed.2d 228 (1968).....	5

STATUTORY AUTHORITIES	PAGES
28 U.S.C. Section 1331	1
28 U.S.C. Section 1343 (3) and (4)	1, 2
28 U.S.C.A. Section 1254(1)	1
28 U.S.C.A. Section 2103	2
Supreme Court Rule 16	2
Supreme Court Rule 17.1	5
Supreme Court Rule 22	2
42 U.S.C. Section 1983	2
42 U.S.C. Section 1985	2
La. Revised Statute 17:443	4

CONSTITUTION OF THE UNITED STATES

Fourteenth Amendment	2, 3
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JURISDICTION OF THE COURT

Appellants have invoked the jurisdiction of the United States Supreme Court pursuant to 28 USC §1331 and 28 USC §1343 (3) and (4). See Pages 1 and 2 of Appellants' Jurisdictional Statement.

Appellee contends that this Honorable Court has jurisdiction over this matter pursuant to 28 USCA §1254 (1); and, therefore, the review by this Court should be by a writ of certiorari and not by appeal.

Appellee requests that this Court apply the provisions of 28 USCA §2103 and treat appellants' appeal and jurisdictional statement filed herein as a petition for writ of certiorari. Appellee files herein a brief in opposition pursuant to the rules of Supreme Court Rule 22 instead of a motion to dismiss or affirm pursuant to Rule 16.

STATEMENT OF CASE

The appellants brought this action pursuant to 42 USC §1983, 1985, and 28 USC §1343 alleging that Mrs. Jones was wrongfully terminated from her teaching position by the appellee, the Jefferson Parish School Board. The District Court denied the appellants' motion for a temporary restraining order and after a full adversary hearing, the District Court dismissed appellants' motion for a preliminary injunction and all of their other claims.

The United States Court of Appeals for the Fifth Circuit, treating the appellants' appeal as both a denial of a preliminary injunction and a dismissal of the action, affirmed.

The decision of the District Court can be located in 523 F.Supp. 816 and the opinion of the Court of Appeals affirming the District Court's judgment is in Appendix A of appellants' jurisdictional statement. Its affirmation is located in 688 F.2d 837.

SUMMARY OF ARGUMENTS

1.

Mrs. Jones was accorded all of the elements of procedural due process required by the Fourteenth Amend-

ment of the United States Constitution.

2.

The due process clause of the Fourteenth Amendment of the United States Constitution does not afford appellants substantive due process rights in the premises.

3.

Questions presented by appellants' jurisdictional statement fail to raise any special or important reasons for granting a writ of certiorari.

ARGUMENT

1.

The findings of fact itemized by the District Court accurately reflects the extensive testimony taken in this matter. The findings by the District Court show that Mrs. Jones was fully advised over a period of approximately two school years of the difficulties that she was having with classroom management. Numerous attempts were made by various school personnel to assist her over this two year period. However, Mrs. Jones' performance as a teacher did not improve and in a letter dated May 4, 1981, she was recommended for termination by the Superintendent of Schools. His letter fully explained the deficiencies in Mrs. Jones' performance as a teacher. (See Finding of Fact No. 27).

Mrs. Jones elected to have a private tenure hearing and she was notified that her hearing was scheduled for June 8th, 9th, 15th, and 16th, 1981. However, the attorney

representing Mrs. Jones advised the School System that Mrs. Jones was going to resign her teaching position.

Upon the opening of the 1981-82 school year, Mrs. Jones reported to work and refused to resign. Accordingly, her tenure hearing was rescheduled for October 12th, 13th, and 15th, 1981.

The appellee has fully afforded Mrs. Jones all of her procedural due process rights guaranteed by the Fourteenth Amendment of the United States Constitution. In particular, she was given full and detailed notice of the reasons for the Superintendent's recommendation for termination and a tenure hearing was scheduled before the Jefferson Parish School Board pursuant to La. R.S. 17:443. *Perry v. Sindermann*, 408 U.S. 593, 92 S.Ct. 2694, 33 L.Ed. 2d 570 (1972); *Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).

Ultimately, a hearing was held by the Jefferson Parish School Board on the Superintendent's recommendation to terminate Mrs. Jones. The decision to terminate was ratified at a public meeting of the Board on October 21, 1981.

2.

Both the District Court and the Fifth Circuit Court of Appeals held that substantial evidence and reasons existed to justify Mrs. Jones' termination. The appellants, in essence, desire that this Honorable Court review the substantive issues and the findings of fact in this case.

In *Harrah Independent School District v. Martin*, 440 U.S. 194, 99 S.Ct. 1062, 59 L.Ed.2d 248 (1979), this

Honorable Court held that in order to invoke the substantive aspects of the due process clause of the Fourteenth Amendment, appellant must raise an interest "...resembling 'the individual's freedom of choice with respect to certain basic matters of procreation, marriage, and family life.' *Kelley v. Johnson, supra*, 425 U.S., at 244, 96 S.Ct., at 1444;". 440 U.S., at 198, 99 S.Ct., at 1064.

Historically, this Honorable Court has avoided intervening into the substantive issues in the areas of public education. In *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975), this Court stated:

"...We are also mindful of our own admonition:

'judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint...By and large, public education in our Nation is committed to the control of state and local authorities.' *Epperson v. Arkansas*, 393 U.S. 97, 104, 89 S.Ct. 226, 270, 21 L.Ed. 228 (1968);' " 419 U.S. at 578, 95 S.Ct. at 738.

3.

Rule 17.1 of the Supreme Court Rules requires that before a writ of certiorari will be granted, special or important reasons must be raised in the petition for review. Appellants' jurisdictional statement presents no new important questions of federal law which have not already been decided nor does it raise any federal questions which are in conflict with decisions of this Honorable Court. Appellants desire this Honorable Court to review the findings of fact

which have already been determined by the District Court and affirmed by the Fifth Circuit Court of Appeals.

CONCLUSION

The appellee submits that this Honorable Court should deny appellants' writ of certiorari or in the alternative, affirm the decision of the United States Court of Appeals for the Fifth Circuit because no federally guaranteed due process rights of Mrs. Jones were violated.

With respect to all of the other numerous allegations raised by the appellants, both the District Court and the Fifth Circuit considered each of those allegations and found them all to be without merit. Accordingly, this Honorable Court should likewise deny appellants' writ.

Respectfully submitted,

JACK A. GRANT
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading has been forwarded to Hurie Jones, Joycelyn M. Jones at 2103 La Quinta Via, Harvey, Louisiana, 70058, by United States mail, postage prepaid, this ____ day of March, 1983.

JACK A. GRANT